

REMARKS

Applicant amended independent claims 29 and 39 and dependent claims 37 and 48 to further define Applicant's claimed invention. Support for the amendment to independent claims 29 and 39 can be found at least in Figs. 7B and 7A, respectively. Support for the amendment to claims 37 and 48 can be found in the specification, at least on page 16, lines 21-23. No new matter has been added.

In the Final Office Action, the Examiner rejected claims 29, 30, 33-37, 39, 40, 41, 44-48, 50-59, 62, 63, and 65-67 under 35 U.S.C. § 102(b) as being clearly anticipated by U.S. Patent No. 4,714,469 to Kenna ("Kenna").

Independent claim 29, as amended, recites that "the upper and lower surfaces being arcuate along a plane transverse to a mid-longitudinal axis of the implant from the lateral side to the medial side along the maximum width of said implant." Kenna does not disclose an implant having upper and lower surfaces as recited in independent claim 29, as now amended. (See, e.g., Kenna, Fig. 1).

Independent claim 39, as amended, recites that "each of the lateral and medial sides" of the first and second implants is "at least in part straight in a direction from the leading end to the trailing end along at least a portion of the length" of the implant. Kenna does not disclose an implant with lateral and medial sides as recited in independent claim 39, as now amended. (See, e.g., Kenna, Fig. 3).

Applicant submits that Kenna does not disclose each and every recitation of independent claims 29 and 39, as now amended. Accordingly, Applicant submits that the rejection of independent claims 29 and 39, and claims 30, 33-37, 40, 41, 44-48, 50-59, 62, 63, and 65-67, dependent from one of independent claims 29 and 39, or claims dependent therefrom, under 35 U.S.C. § 102(b) over Kenna has been overcome.

The Examiner rejected claims 31, 32, 42, 43, 64, and 68 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Kenna and U.S. Patent No. 5,192,327 to Brantigan ("Brantigan"); and rejected claims 38 and 49 under 35 U.S.C. § 103(a) as being unpatentable over Kenna in view of WO 98/48738 (via related U.S. Patent No. 6,855,168) to Crozet. Applicant submits that the rejections of claims 31, 32,

38, 42, 43, 49, 64, and 68 are rendered moot at least because these claims depend from an allowable independent claim, or claims dependent therefrom.

Applicant submits that independent claims 29 and 39 are patentable and that dependent claims 30-38, 40-59, and 62-68 dependent from independent claim 29 or 39, or claims dependent therefrom, are patentable at least due to their dependency from an allowable independent claim.

In view of the foregoing remarks, it is respectfully submitted that the claims, as amended, are patentable. Therefore, it is requested that the Examiner reconsider the outstanding rejections in view of the preceding comments. Issuance of a timely Notice of Allowance of the claims is earnestly solicited.

To the extent any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this reply, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 50-3726.

Respectfully submitted,

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